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County of Los Angeles CHIEF EXECUTIVE OFFICE

713 KENNETH HAHN HALL OF ADMINISTRATION
LOS ANGELES, CALIFORNIA 90012
(213) 974-1101
<http://ceo.lacounty.gov>

WILLIAM T FUJIOKA
Chief Executive Officer

November 19, 2007

Board of Supervisors
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First District

YVONNE B. BURKE
Second District

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Third District

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Fourth District

MICHAEL D. ANTONOVICH
Fifth District

To: Supervisor Zev Yaroslavsky, Chairman
Supervisor Gloria Molina
Supervisor Yvonne B. Burke
Supervisor Don Knabe
Supervisor Michael D. Antonovich

From: William T Fujioka
Chief Executive Officer

CIVIL GRAFFITI CITATION PILOT PROJECT

On October 9, 2007, your Board instructed the Chief Executive Office (CEO) to work with County Counsel, the Sheriff, and the Director of Public Works to:

1. Designate which department would operate as the lead agency in civil graffiti citation cases;
2. Create a pilot project that would:
 - a. Establish a set of civil fine standards whereby graffiti vandals - and, in the cases involving minors, their parents - would automatically be issued a base fine and the cost of graffiti clean-up upon receiving a graffiti citation; and
 - b. Establish an Administrative Hearing Panel whose members would convene in graffiti vandalism cases and would provide due process to accused graffiti vandals - and, in the cases involving minors, their parents - in a process similar to traffic court;
3. Determine if any existing County ordinances or policies must be amended in order to accomplish the aforementioned directives and, if so, supply the Board with amending language specifically to achieve these objectives; and supply a written report within 30 days on the progress of implementing these directives.

LEAD AGENCY

The CEO, assisted by County Counsel, is currently in the process of identifying the appropriate department to serve as the lead agency/issuing department responsible for the Civil Graffiti Citation Program. As the lead agency, the selected department will be responsible for overseeing the administrative hearing process, including conducting the administrative hearing and collecting the administrative fine, non-compliance fee, and restitution. During the 2008-09 Proposed Budget phase, we will work with the selected department to identify the appropriate operational staff and costs required to fully implement this program. In addition, we will provide the Board with a final recommendation for the lead agency, detailed funding requirements, and a timeframe for implementation.

COUNTY ORDINANCE PROVISIONS

The following is a summary of the current available civil remedies allowable under the County's Title 13 Public Peace, Morals and Welfare and Title 1 General Provisions ordinances when graffiti is placed on public or private property and County Counsel's recommended changes to those ordinances. The recommended changes will assist the lead agency in achieving the Board motion's stated objectives.

Title 13 - Chapter 13.12 Graffiti Prevention, Prohibition and Removal

Section 13.12.030 makes it unlawful for any person to apply graffiti on any County-owned property or without the permission of the owner or occupant of any non-County-owned property within the unincorporated area of the County.

Currently, Section 13.12.100 provides that any person applying graffiti shall have the duty to remove the graffiti within 24 hours of notification by the County or private owner and is responsible for removal of or the cost for the County to remove the graffiti. Failure to remove the graffiti or remit payment to the County for their incurred cost is an additional violation. In cases where the graffiti is applied by an un-emancipated minor, the parent(s) or legal guardian(s) are also responsible for the removal or payment of costs. The Sheriff, Department of Public Works (DPW) Director or designee, or any other County department head as authorized by the Board of Supervisors may convert the payment into equivalent forms of community service hours.

County Counsel recommends Section 13.12.100 be amended as follows:

- (1) Clarify the County is not required to notify the graffiti perpetrator prior to removing the graffiti and assessing costs for the removal;

- (2) If graffiti removal is performed by the County, the County will serve a statement of expense to the perpetrator and to the parent or legal guardian if the perpetrator is an un-emancipated minor;
- (3) Payment for graffiti removal will be due within a specified number of calendar days following service of the expense statement; and
- (4) Failure to remove the graffiti or to pay expenses enables the County to impose civil fines pursuant to Chapter 1.25 in addition to any other notices of violation, fines, fees, or penalties.

County Counsel indicates that Section 13.12.100 already contains language which allows the graffiti perpetrator to request community service in lieu of restitution and recommends the section be amended to allow the parent and/or legal guardian to request parenting classes in lieu of restitution.

Section 13.12.110 currently provides the methods under which the County has the right to use public funds to remove graffiti from County and non-County owned property, and to commence abatement proceedings against property owners and persons who have primary responsibility for the control of the graffiti-defaced property.

County Counsel recommends Section 13.12.110 be amended to include a new subsection to provide a process whereby the County can summarily abate graffiti nuisances and collect abatement and related administrative costs from the graffiti perpetrator and his or her parent or legal guardian. Payment will be due within a specified number of days following service of the statement of expense for the abatement, unless the graffiti perpetrator or his or her parent or legal guardian requests a hearing. This process will also allow the County to record a lien or special assessment against the parcel of land owned by the graffiti perpetrator and his or her parent or legal guardian.

Section 13.12.140 provides for civil remedies and states that any violation of the provisions of this chapter constitutes a nuisance and may be abated by the County through a civil process.

County Counsel recommends Section 13.12.140 be amended to provide that in addition civil penalties may be imposed against anyone who violates any provisions of the code pursuant to Chapter 1.25.

Title 1 - Chapter 1.25 Administrative Fines and Non-compliance Fees for Code Violations

Section 1.25.020 E defines the issuing department as the County department that issues the notice of violation and has the authority and responsibility for enforcing the code section that is the subject of the notice of violation. In addition, Subsection F defines the responsible person as the person responsible for, or alleged to be responsible for, the code violation. It also provides that there may be more than one responsible person for a code violation. However, there is no provision for identifying a parent or legal guardian of a minor as the responsible person.

County Counsel recommends Section 1.25.020 be amended to add to the definition of issuing department the following language: "A notice of violation may also be issued by law enforcement on behalf of the issuing department."

County Counsel further recommends the definition of responsible person be amended to include the parent or legal guardian of a person under the age of 18, in the parent or legal guardian's custody and/or control, who willfully violates any provisions of the code.

Sections 1.25.040 and 1.25.060, respectively, provide that each violation of the code and each separate offense are subject to an administrative fine and non-compliance fee. The fine imposed is a penalty, the amount to be determined by the enforcement officer; and the non-compliance fee will reimburse the issuing department for their costs incurred for enforcement of the code violations and is determined by the Auditor-Controller.

County Counsel is recommending Sections 1.25.040 and 1.25.060 be amended to provide in lieu of paying an administrative fine, the responsible person may elect to serve community service, in the case of a minor, or attend parenting classes, in the case of a parent or legal guardian, for violations of County Code Sections 13.12.030 and 13.12.100.

Section 1.25.050 and 1.25.070 allows the County to impose, on the responsible person, administrative fines and non-compliance fees concurrently with the notice of violation issued by the enforcement officer.

Section 1.25.080 provides that any responsible person served with a notice of administrative fine or non-compliance fee may submit a written request for an administrative hearing to contest the imposition of and/or amount of the administrative fine/non-compliance fee. This request must be accompanied by a deposit of the full amount of the fine/fee unless the person submits a request for a hardship waiver.

The hardship waiver request is reviewed by the department head of the issuing department. If the hardship waiver is granted, then the person may have a hearing without making any advance deposit.

Section 1.25.100 provides the responsible person with the right to judicial review of the hearing officer's written decision. However, if no timely appeal is filed, the hearing officer's decision is deemed confirmed.

PILOT PROJECT

The CEO and County Counsel are recommending the following procedures for the Civil Graffiti Citation Program.

Upon arrest of the perpetrator, the Sheriff's Department will serve, on behalf of the issuing department, a Notice of Violation and Notice of Imposition of Administrative Fine and Non-compliance Fee to the responsible person(s), assessing the administrative fine and non-compliance fee pursuant to County Code Sections 13.12.030, 1.25.040 and 1.250.060. The responsible person will include the violator(s) and, in the case of a minor, the parent or legal guardian. The Sheriff's Department will concurrently refer the case to the District Attorney for criminal prosecution and will notify the issuing department of the issuance of the Notices.

Summary Abatement – Restitution

Following the removal of the graffiti by the DPW graffiti abatement program, the issuing department will mail a statement of expense to the graffiti perpetrator and his or her parent or legal guardian, pursuant to County Code Section 13.12.100. Payment will be due within a specified number of days following service of the statement of expense for abatement unless the perpetrator or his or her parent or legal guardian requests a hearing. If elected by the graffiti perpetrator or his or her parent or legal guardian, the issuing department may convert payment of expenses into equivalent hours of community service or parenting classes. If payment is not received, an additional violation of County Code Section 13.12.100 may be assessed and an additional administrative fine may be imposed pursuant to County Code Sections 1.25.040 and Section 1.25.060.

Administrative Fine and Non-compliance Fee

Upon receipt of the Notice of Violation, the responsible person will have 10 calendar days from the date of service to pay the administrative fine and non-compliance fee or contact the issuing department to request an administrative hearing. If the responsible

person does not request an administrative hearing, the issuing department will collect the administrative fine and non-compliance fee through the County's collection process.

If the responsible person requests an administrative hearing to contest the administrative fine and non-compliance fee, they must deposit the full amount of the assessed fine and non-compliance fee or request a hardship waiver. The department head or their designee will either grant or deny the hardship waiver based on specified financial and medical hardship criteria. If the hardship waiver is granted, no deposit is required by the responsible person prior to the administrative hearing. The issuing department will schedule and mail the Notice of Administrative Hearing.

If the hardship waiver is denied, the issuing department will mail the Notice of Denial and the responsible person must deposit the full amount of the assessed fine before a hearing is scheduled. If the deposit is not received, the issuing department will collect the administrative fine and non-compliance fee. If the deposit is received, the Department will schedule and mail a Notice of Administrative Hearing.

The administrative hearing will be held and conducted by the department head or their designee. The hearing officer will be required to issue a decision within 10 calendar days following the hearing. The Notice of Hearing Officer's Decision will be mailed to the responsible person. The Department will either collect the administrative fine and non-compliance fee or refund the responsible person's deposit, whichever is applicable.

The process will also allow the responsible person to request a continuance of the administrative hearing, if needed.

As previously indicated, our office will continue to work with County Counsel to identify the appropriate department to implement and oversee the administrative responsibilities associated with this program. The CEO will also work to determine whether or not implementation of this program requires additional resources. However, it is our goal to implement this program in conjunction with the Sheriff's Department's Graffiti Tracker Program and Vandalism Enforcement Team and seek ways to mitigate additional cost to the fullest extent possible.

CONCLUSION

Graffiti is a crime that encourages gang related turf wars, fosters drug activity, and nurtures hate crimes. Not only is graffiti unattractive, it is costly. Millions of dollars per year are spent by our State and local governments to combat graffiti tagging and property damage. Neighborhoods marked with graffiti tagging are also prone to other forms of crime because it promotes the idea that no one cares. Graffiti reduces

property values, negatively impacts businesses, and has a direct impact on increased gang activity.

Combating graffiti tagging requires a comprehensive approach that includes education prevention, law enforcement participation, and community involvement. Penalties for the violation of graffiti statutes and ordinances include imposition of fines and imprisonment, restitution, parental liability, and community service. It is our hope the above recommended program and ordinance changes reflect the measures the Board believes will be most effective in addressing the graffiti problem in the communities we serve.

Should you have any questions or require additional information, please contact Deputy Chief Executive Officer Doyle Campbell, Public Safety, at (213) 893-2374.

WTF:SRH:RDC
JW:SW:GY:yjf

c: County Counsel
Sheriff Department
Department of Public Works

Graffiti.Motion.bm



WILLIAM T FUJIOKA
Chief Executive Officer

County of Los Angeles CHIEF EXECUTIVE OFFICE

713 KENNETH HAHN HALL OF ADMINISTRATION
LOS ANGELES, CALIFORNIA 90012
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April 1, 2008

Board of Supervisors
GLORIA MOLINA
First District

YVONNE B. BURKE
Second District

ZEV YAROSLAVSKY
Third District

DON KNABE
Fourth District

MICHAEL D. ANTONOVICH
Fifth District

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, California 90012

Dear Supervisors:

**APPROVAL OF ORDINANCE AMENDMENTS TO LOS ANGELES COUNTY CODE
TITLE 1 AND TITLE 13; AND DESIGNATION OF THE DEPARTMENT OF
OMBUDSMAN AS THE LEAD AGENCY AND ISSUING DEPARTMENT IN CIVIL
ABATEMENT AND/OR ADMINISTRATIVE FINE AND NONCOMPLIANCE FEE
PROCEEDINGS FOR GRAFFITI OFFENSES
(ALL DISTRICTS – 3 VOTES)**

SUBJECT

The Chief Executive Office (CEO), County Counsel, the Sheriff, and the Department of Public Works is requesting approval of ordinance amendments to Los Angeles County Code Title 1 and Title 13; and designation of the Department of Ombudsman as the lead agency and issuing Department in civil abatement and/or administrative fine and non-compliance fee proceedings for graffiti offenses. At a later date, the CEO will submit for the Board's consideration the appropriate operational staff and costs, if any, required to fully implement the Civil Graffiti Program and a timeframe for implementation.

IT IS RECOMMENDED THAT YOUR BOARD:

- 1) Introduce, waive reading and place an ordinance on the subsequent agenda for adoption, amending Chapter 1.25 of Title 1 – General Provisions of the Los Angeles County Code ("LACC") relating to administrative fines and noncompliance fees for code violations and Chapter 13.12 of Title 13 – Public

Peace, Morals and Welfare of the LACC relating to graffiti prevention, prohibition, and removal to provide that for violations relating to graffiti offenses, a notice of violation may be issued by a peace officer or a probation officer on behalf of the issuing County department; provide for the joint and several liability of a parent or guardian having custody and control of a minor for administrative fines and noncompliance fees for graffiti offenses; authorize the Department Head of the issuing department to approve community service or attendance at parenting classes in-lieu of payment of an administrative fine or noncompliance fee; provide for summary abatement for nuisance violations relating to graffiti and a procedure for the County to recoup its abatement costs and impose a lien or special assessment for unpaid costs against the property of the graffiti perpetrator, or his or her parent or guardian, if applicable; and provide for the County to recoup its graffiti apprehension and abatement costs associated with graffiti offenses caused by minors through the Probation Officer of the County in juvenile court proceedings.

- 2) Designate the Department of Ombudsman to serve as the lead agency and issuing department in civil abatement and/or administrative fine and noncompliance fee proceedings for graffiti offenses.
- 3) Following adoption of said ordinance, cause a certified copy of the ordinance to be forwarded to the Clerk of the Juvenile Court and to the Los Angeles County Probation Officer.

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION

On October 9, 2007, your Board instructed the CEO, to work with County Counsel, the Sheriff, and Director of Public Works to:

- Designate which Department would operate as the lead agency in civil graffiti citation cases;
- Create a pilot project that would: establish a set of civil fines standards whereby graffiti vandals and, in the case involving minors, their parents would automatically be issued a base fine and the cost of graffiti clean-up upon receiving a graffiti citation; establish an Administrative Hearing Panel whose members would convene in graffiti vandalism cases and would provide due process to accused graffiti vandals; and in the case involving minors, their parents in a process similar to traffic court; and

- Determine if existing County ordinances or policies must be amended in order to accomplish the aforementioned directive and, if so, supply the Board with amending language specifically to achieve these objectives.

The recommended changes to the ordinances were submitted to your Board in a November 19, 2007 memorandum, and are now being presented for approval in accordance with the recommendations found in our report. Board approval of the recommended action will allow the lead agency, namely the Ombudsman Department, to achieve the aforementioned Board motion stated objectives.

Based upon consultation with County Counsel, Sheriff, and Public Works Department, we recommend that your Board adopt the enclosed ordinance which:

- *Provides that for graffiti offenses relating to the unlawful application of graffiti on trees or structures on any County-owned property or without the permission of the owner or occupant on any non-County-owned property, such violations are subject to enforcement through civil abatement and/or administrative fine and noncompliance fee proceedings.*
- *Amends the definition of issuing department to provide that for violations relating to graffiti offenses, a notice of violation may be issued by a peace officer or a probation officer on behalf of the issuing department.*
- *Amends the definition of responsible person to include for violations relating to graffiti offenses, any parent or guardian having custody and control of a minor committing the graffiti violation, and on a joint and several basis with such minor, provided the minor and parent or guardian are each served with a notice of violation or notice of noncompliance fee.*
- *Allows any responsible person(s) served with a notice of administrative fine and/or a notice of noncompliance fee for violation of Chapter 13.12 of this code, relating to graffiti, to request to perform community service in a program approved by the issuing department in-lieu of payment of the administrative fine and/or noncompliance fee; and when the responsible person who is served with a notice of administrative fine and/or a notice of noncompliance fee is a parent or guardian of a minor who has committed the graffiti violation, allow the parent or guardian to request to perform community service or attend parenting classes.*

- *Allows the County to recoup its graffiti apprehension and abatement costs associated with graffiti offenses caused by minors through the Probation Officer of the County in juvenile court proceedings; and makes findings that the average cost to the County incurred by the sheriff's department in identifying and apprehending person(s) associated with graffiti offenses is \$655, and the average cost to the County for removing graffiti and repairing or replacing property defaced with graffiti is \$522 per incident of graffiti vandalism.*
- *Adds a new section to provide a process whereby the County can summarily abate graffiti nuisances and collect abatement and related administrative costs from the graffiti perpetrator and his/her parent or guardian. Said process would include that any person served with a graffiti abatement expense statement may file a written request for a hearing on the correctness and/or reasonableness of the abatement costs. The abatement expense may be revised, corrected or modified based on evidence presented at the hearing. The County may make the unpaid expenses of abatement a lien or special assessment against the property of the person committing a nuisance, and where the person is a minor, against the property of the parent or guardian having custody and control of the minor.*
- *The CEO, assisted by County Counsel, has identified the Department of Ombudsman as the lead agency and issuing department responsible for the Civil Graffiti Citation Program. As the lead agency, the Ombudsman will be responsible for overseeing the administrative hearing process, including conducting the administrative hearing and collecting the administrative fine, non-compliance fee, and restitution. The CEO is currently working with the Ombudsman to identify the appropriate operational staff and costs, if any, required to fully implement the program and will return to your Board at a later date with detailed funding requirements and a timeframe for implementation.*

Implementation of Strategic Plan Goals

The recommended Board action is consistent with the Countywide Strategic Plan Goal 4: Fiscal Responsibility. Implementation of this recommendation will strengthen the County's fiscal capacity by allowing the Ombudsman to collect an administrative fine, non-compliance fee, and restitution from graffiti perpetrators.

FISCAL IMPACT/FINANCING

Application of graffiti on structures and trees on County-owned property or without the permission of the owner or occupant on any non-County-owned property is unlawful and the perpetrator is responsible for either removal or for the cost of removal if done by the County. The amendments to the County Code allow for administrative fines and non-compliance fees to be assessed against persons who commit graffiti offenses and in cases where the graffiti perpetrator is a minor, against his or her parent or guardian who has custody and control of such minor on a joint and several basis. The amendments also allow for summary abatement of graffiti nuisances and provide a process whereby the County can summarily abate graffiti and recoup its costs through summary abatement proceedings, or recover its costs by the County probation officer through juvenile court proceedings. Additionally, in cases where any person who commits a graffiti nuisance owns property, or, is a minor whose parent or guardian owns property, the summary abatement provides a process whereby a lien or special assessment may be imposed against the real property for the unpaid abatement expenses.

While the amendments to the code provide additional tools to combat the graffiti problem, the implementation of these enforcement strategies are not meant to be self-sustaining, and the operational staff and costs required to fully implement this program in compliance with the recommended ordinance will likely have an impact on net County cost. Our office will submit to the Board, at a later date, for consideration the operational staff and costs required to fully implement this program in compliance with the recommended ordinance amendment.

FACTS AND PROVISIONS/LEGAL REQUIREMENTS

Pursuant to California Welfare and Institutions Code Section 742.14, following adoption of the said ordinance, the County will cause a certified copy of the ordinance containing the findings made by the Board of Supervisors of the average cost to the County incurred by the Sheriff's Department in identifying and apprehending person(s) associated with graffiti offenses, of \$655, and the average cost to the County for removing graffiti and repairing or replacing property defaced with graffiti, of \$522 per incident of graffiti vandalism, to be forwarded to the Clerk of the Juvenile Court and to the Los Angeles County Probation Officer.

IMPACT ON CURRENT SERVICES (OR PROJECTS)

By approving the Ordinance amendment, your Board is taking a proactive step to establish administrative fines and noncompliance fees for graffiti offenses and, therefore, greater consequences for habitual graffiti offenders.

As previously indicated, our office is currently working with the Ombudsman to determine whether or not implementation of this program requires additional resources. However, it is our goal to implement this program in conjunction with the Sheriff's Department Graffiti Tracker Program and Vandalism Enforcement Team and seek ways to mitigate additional program costs to the fullest extent possible.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'W. T. Fujioka', with a stylized flourish at the end.

WILLIAM T FUJIOKA
Chief Executive Officer

WTF:SRH:RDC
JW:SW:PV:yjf

c: County Counsel
Sheriff's Department
Department of Public Works
Ombudsman Department

Attachment

Civil.Graffiti.Ordinance.bl

ANALYSIS

This ordinance amends Title 1 – General Provisions of the Los Angeles County Code relating to administrative fines and noncompliance fees for code violations and Title 13 – Public Peace, Morals and Welfare of the Los Angeles County Code relating to graffiti prevention, prohibition, and removal, to:

- Provide that, for violations relating to graffiti offenses, a notice of violation may be issued by a peace officer or a probation officer on behalf of the issuing County department;
- Provide for the joint and several liability of a parent or guardian having custody and control of a minor for administrative fines and noncompliance fees for graffiti offenses;
- Authorize the department head of the issuing department to approve community service or attendance at parenting classes in lieu of payment of an administrative fine or noncompliance fee;
- Provide for summary abatement for violations relating to graffiti and a procedure for the County to recoup its abatement costs and impose a lien or special assessment for unpaid costs against the graffiti perpetrator, and his or her parent or guardian, if applicable; and

- Provide for the County to recoup its graffiti apprehension and abatement costs associated with graffiti offenses caused by minors through the Probation Officer of the County in juvenile court proceedings.

RAYMOND G. FORTNER, JR.
County Counsel

By *Sari J. Steel*
SARI J. STEEL
Principal Deputy County Counsel
Property Division

SJS:sh

10/24/07 (requested)

02/12/08 (revised)

ORDINANCE NO. _____

An ordinance amending Title 1 – General Provision of the Los Angeles County Code relating to administrative fines and noncompliance fees for code violations and Title 13 – Public Peace, Morals and Welfare of the Los Angeles County Code relating to graffiti prevention, prohibition, and removal.

The Board of Supervisors of the County of Los Angeles ordains as follows:

SECTION 1. Section 1.25.020 is hereby amended to read as follows:

1.25.020 Definitions.

...

E. Issuing department. The county department that issues a notice of violation and that has authority and responsibility for enforcing the code section that is the subject of the notice of violation. For violations relating to graffiti offenses, a notice of violation may be issued by a peace officer or a probation officer on behalf of the issuing department.

F. Responsible person. A person responsible for, or alleged to be responsible for, a code violation. There may be more than one responsible person for a code violation. A responsible person may include any of the following:

...

4. For code violations pertaining to conditions of real property, a person who owns the real property, or any lessee or sublessee of the real property that has a current right to possess the real property;~~and,~~

5. An on-site manager of a business premises who is responsible for the activities at the premises; and

6. For code violations relating to graffiti offenses, any parent or guardian having custody and control of a minor committing such violation, on a joint and several basis with such minor, provided such minor and parent or guardian are each served with a notice of violation or notice of noncompliance fee.

...

SECTION 2. Section 1.25.050 is hereby amended to read as follows:

1.25.050 Imposition of administrative fines.

...

D. Unless a responsible person requests an administrative hearing to contest the imposition of the administrative fine, pursuant to Section 1.25.080, or has requested permission to perform community service or attend parenting classes pursuant to Section 1.25.075, the notice of administrative fine shall constitute the final administrative order of the county with respect to said administrative fine, and the fine shall be due and payable by the responsible person(s) to the issuing department within ten (10) calendar days following service of the notice of administrative fine.

...

SECTION 3. Section 1.25.070 is hereby amended to read as follows:

1.25.070. Imposition of noncompliance fees.

...

C. Unless a responsible person requests an administrative hearing to contest the imposition of the noncompliance fee, pursuant to Section 1.25.080, or has requested permission to perform community service or attend parenting classes pursuant to Section 1.25.075, the notice of noncompliance fee shall constitute the final administrative order of the county with respect to said noncompliance fee, and the fee shall be due and payable by the responsible person(s) to the issuing department within ten (10) calendar days following service of the notice of noncompliance fee.

...

SECTION 4. Section 1.25.075 is hereby added to read as follows:

1.25.075 Request to perform community service or parenting classes for violations relating to graffiti.

A. Request to perform community service or attend parenting classes for violations relating to graffiti in lieu of administrative fine and/or noncompliance fee. Any responsible person(s) served with a notice of administrative fine and/or a notice of noncompliance fee for a violation of Chapter 13.12 of this code relating to graffiti may request to perform community service in a program approved by the issuing department in lieu of payment of the administrative fine and/or noncompliance fee. When the responsible person who is served with a notice of administrative fine and/or a notice of noncompliance fee is a parent or guardian of a minor who has committed the violation, such parent or guardian may request to perform community service or attend parenting classes in a program approved by the issuing department in lieu of payment of the administrative fine and/or noncompliance fee.

B. Written request. Any eligible responsible person(s) served with a notice of administrative fine and/or a notice of noncompliance fee who requests permission to perform community service or attend parenting classes in lieu of payment of an administrative fine or noncompliance fee, as provided in subsection A, must make the request in writing and file it with the issuing department within five (5) calendar days following service of the notice of administrative fine and/or the notice of noncompliance fee. The request shall also include the address of the responsible person(s) for the purpose of correspondence by the issuing department.

C. Notification of approval or denial of request and required completion date. The issuing department shall notify the responsible person(s) by first class mail, postage prepaid, whether the request to perform community service or attend parenting classes has been approved, and if approved, shall identify the program(s) that the responsible person must complete, and the date by which such program shall be completed. The decision to grant or deny the request shall be in the sole discretion of the issuing department. In the event the issuing department denies the request to perform community service or attend parenting classes, the administrative fine and/or the noncompliance fee otherwise payable as set forth in the notice of administrative fine and/or the notice of noncompliance fee previously served on the responsible person shall be made by the date specified in the notice denying the request to perform community service or attend parenting classes.

D. Suspension of administrative fine. The obligation to pay the administrative fine or noncompliance fee otherwise required under subsection A of Section 1.25.050 or subsection A of Section 1.25.070 shall be suspended during the time period provided for completion of the approved program as set forth in the written notification approving the request sent by the issuing department under subsection C, above.

E. Proof of successful completion of community service or parenting classes. The responsible person(s) shall provide proof of completion of the approved program by submitting, to the issuing department within five (5) calendar days following the date by which the program was to be completed, a certificate of completion issued by the program provider. Failure to present such proof within the required time period shall result in the reinstatement of the administrative fine and/or noncompliance fee otherwise due under subsection A of Section 1.25.050 or subsection A of Section 1.25.070 without further notification by the issuing department and payment of the amount due shall be made within seven (7) calendar days of the date by which the program was to be completed as specified in the notice provided under subsection C, above.

SECTION 5. Section 13.12.030 is hereby amended to read as follows:

13.12.030 Unlawful to apply graffiti -- Prohibition of defacement.

...

E. Violation of subsections A or B of this section shall be ~~a misdemeanor punishable by a fine not to exceed \$500.00 or by imprisonment in the county jail not to exceed six months, or by both such fine and imprisonment~~ subject to enforcement through civil abatement and/or administrative fine and noncompliance fee proceedings.

F. Violation of subsection ~~B~~ or C of this section is an infraction punishable by a fine not to exceed \$250.00.

SECTION 6. Section 13.12.105 is hereby added to read as follows:

13.12.105 Recovery of costs by county probation officer for defacement of county property and the property of others through juvenile court proceedings.

Juvenile court restitution order. In cases where a petition has been filed pursuant to section 602 of the Welfare and Institutions Code, the probation officer of the county may seek recovery through juvenile court proceedings in accordance with sections 742.14 and 742.16 of the Welfare and Institutions Code of the costs associated with the defacement by minors of its property and the property of others by graffiti or other inscribed material.

A. Findings regarding costs incurred by the sheriff's department in identification and apprehension. The board of supervisors finds that the average cost to the county incurred by the sheriff's department in identifying and apprehending a person subsequently convicted of a violation of section 594, 594.3, 594.4, 640.5, 640.6, or 640.7 of the Penal Code or a minor subsequently found to be a person described in section 602 of the Welfare and Institutions Code by reason of the commission of an act prohibited by section 594, 594.3, 594.4, 640.5, 640.6, or 640.7 of the Penal Code is \$665.00.

B. Findings regarding costs incurred for removal, repair, and/or replacement.

The board of supervisors finds that the average cost to the county of removing graffiti and other proscribed material, and of repairing and replacing property of the types frequently defaced with graffiti or other inscribed material that cannot be removed cost effectively, is \$522.00 per incident of graffiti vandalism.

C. Review of findings. The findings set forth in subsections A and B, above, shall be reviewed at least once every three years at which time the board of supervisors, by resolution, shall adopt updated cost findings, in accordance with subsections A and B, above.

D. Transmission of data to probation officer. The county shall transmit to the probation officer its data about its expenditure of resources in identifying and apprehending any minor about whom a petition is filed alleging that the minor is a person described in section 602 of the Welfare and Institutions Code by reason of commission of an act prohibited by section 594, 594.3 594.4, 640.5, 640.6, or 640.7 of the Penal Code, and its expenditure of resources to remove graffiti or other material inscribed, or to repair or replace property where it is not cost effective to remove graffiti or other inscribed material, by any minor about whom a petition is filed alleging that the minor is a person described in section 602 of the Welfare and Institutions Code by reason of commission of an act prohibited by section 594, 594.3 594.4, 640.5, 640.6, or 640.7 of the Penal Code.

SECTION 7. Section 13.12.115 is hereby added to read as follows:

13.12.115 Summary abatement; responsibility for cost for removal of graffiti by perpetrator.

A. Summary abatement. As an alternative to the removal provisions set forth in Section 13.12.110, the county may summarily abate any nuisance resulting from the defacement of the property of another by graffiti or any other inscribed material at the expense of the person creating, causing, or committing the nuisance and make the expense of abatement of the nuisance a lien against the property of the person and a personal obligation against that person.

B. Joint and several liability of parent or guardian. The parent or guardian having custody and control of a minor committing a nuisance described in subsection A, shall be jointly and severally liable with the minor for the expense of abatement. The unpaid expense of abatement of any nuisance resulting from the defacement of the property of another by graffiti or any other inscribed material shall become a lien against the property of a parent or guardian having custody and control of the minor, and a personal obligation against the parent or guardian having custody and control of the minor.

C. The county probation officer shall report the names and addresses of the parent or guardian having custody and control of a minor committing a nuisance described in subsection A, if known, to the county recorder.

D. Definitions. For the purpose of this section, the following terms have the following meanings:

1. "Expense of abatement" includes, but is not limited to, court costs, attorney's fees, costs of removal of the graffiti or other inscribed material, costs of repair and replacement of defaced property, and the law enforcement costs incurred by the county in identifying and apprehending the minor or other person.

2. "Graffiti or other inscribed material" means any unauthorized inscription, word, figure, mark, or design that is written, marked, etched, scratched, drawn, or painted on any real or personal property.

3. "Minor" or "other person" means a minor or other person who has confessed to, admitted to, or pled guilty or nolo contendere to a violation of section 594, 594.3, 640.5, 640.6, or 640.7 of the Penal Code; or a minor convicted by final judgment of a violation of section 594, 594.3, 640.5, 640.6, or 640.7 of the Penal Code; or a minor declared a ward of the juvenile court pursuant to section 602 of the Welfare and Institutions Code by reason of the commission of an act prohibited by section 594, 594.3, 640.5, 640.6, or 640.7 of the Penal Code.

E. Collection of expenses of abatement.

1. Abatement expense statement. Upon the determination of the expense of abatement, the sheriff, director, department of public works or his or her designee, or any additional department head as authorized by the board of supervisors, shall send an abatement expense statement to the responsible person(s) pursuant to subsection A, and if applicable, subsection B, above. Payment shall be due fifteen (15) days from the service of the abatement expense statement. Failure to pay the full amount specified in the abatement expense statement within the required time period

shall constitute an additional violation of this chapter, and administrative fines and/or noncompliance fees pursuant to Chapter 1.25 may be assessed in addition to any other fine, penalty, fee, charge, notice of violation, or other remedy that may be imposed.

2. Hearing; Notice.

a. Within ten (10) days of the mailing of the abatement expense statement, any person served with an abatement expense statement may file with the county representative who issued the statement, a written request for a hearing on the correctness, reasonableness, or both of such claim of abatement costs. The sheriff, the director of the department of public works or his or her designee, or any additional county department head, as authorized by the board of supervisors, shall then cause notice of the time and place of the hearing before the sheriff or the director of the applicable department or his or her designee to be given to the person requesting the same by the United States mail, postage prepaid, addressed to the person at his/her last-known address at least five days in advance of the hearing.

b. At the hearing if requested, the sheriff or director of the applicable department or his or her designee shall receive all evidence presented by the responsible person and by the county. Thereupon, the sheriff or director of the applicable department or his or her designee shall make such revision, correction, and modification to the statement as deemed warranted, after which the statement as submitted, or as revised, corrected, or modified, shall be confirmed. The decision of the sheriff or the director of the applicable department or his or her designee shall be final.

c. Suspension of abatement costs. The obligation to pay the expenses of abatement otherwise required under subsection E.1 of this section shall be suspended during the pendency of any hearing provided for under subsection E.2, above. Upon the sheriff or the director of the applicable department or his or her designee rendering his or her decision following a hearing, payment of the confirmed or otherwise revised, corrected, or modified abatement expense statement shall be made within ten (10) days following service of the sheriff's or the director of the applicable department's decision upon the responsible person.

3. Lien against real property for unpaid expenses.

a. The county may make the unpaid expenses of abatement a lien against the property of the person committing a nuisance described in subsection A, above, and, where such person is a minor, against the property of the parent or guardian having custody and control of such minor.

b. Notice. Notice shall be given to the minor or other person and to the parent or guardian having custody and control of the minor prior to the recordation of a lien on the parcel of land owned by the minor or other person, or owned by the parent or guardian having custody and control of the minor.

c. Service of notice. Notice shall be served in the same manner as a summons in a civil action pursuant to Article 3 (commencing with section 415.10) of Chapter 4 of Title 5 of Part 2 of the Code of Civil Procedure. If the minor or other person, and/or the parent or guardian having custody and control of the minor, after diligent search, cannot be found, the notice may be served by posting a

copy of the notice upon the property owned by the minor or other person, and/or the parent or guardian having custody and control of the minor, in a conspicuous place, for a period of ten (10) days. The notice shall also be published pursuant to Government Code section 6062 in a newspaper of general circulation that is published in the county in which the property is located.

d. A graffiti nuisance abatement lien shall be recorded in the county recorder's office in the county in which the parcel of land is located. From the date of recording, the lien shall have the force, effect, and priority of a judgment lien.

e. A graffiti nuisance abatement lien authorized by this section shall specify the amount of the lien; the name of the agency on whose behalf the lien is imposed; the date of the abatement order; the street address, legal description, and assessor's parcel number of the parcel on which the lien is imposed; and the name and address of the recorded owner of the parcel.

f. If the lien is discharged, released, or satisfied, either through payment or foreclosure, notice of the discharge containing the information specified in subsection e, above, shall be recorded by the county. A graffiti nuisance abatement lien and the release of the lien shall be indexed in the grantor-grantee index.

g. A graffiti nuisance abatement lien may be satisfied through foreclosure in an action brought by the county.

h. As provided in California Government Code section 38773.2, the county recorder may impose a fee on the county to reimburse the costs of processing and recording the lien and providing notice to the property owner. The

county may recover from the property owner any costs incurred regarding the processing and recording of the lien and providing notice to the property owner as part of its foreclosure action to enforce the lien.

F. Upon the entry of a second or subsequent civil or criminal judgment within a two-year period finding that an owner of property or a minor or other person as defined in this section is responsible for a condition that may be abated in accordance with this provision, except for conditions abated pursuant to section 17980 of the Health and Safety Code, the court may order that person to pay treble the costs of the abatement.

SECTION 8. Section 13.12.130 is hereby amended to read as follows:

13.12.130 Penalties and civil liability of parents.

It is the county's intent that pursuant to California Penal Code ~~§~~section 640.6(a), all acts of graffiti vandalism occurring within the county shall be prosecuted as misdemeanors pursuant to California Penal Code Section 594, et seq., or this chapter, except as provided otherwise.

A. Criminal Penalties. Except for violations of Sections 13.12.030A and 13.12.030B, which shall be enforceable as otherwise provided for in Sections 13.12.030E, and Sections 13.12.030C, 13.12.070, and 13.12.080, which shall be punishable as infractions, any violation of this chapter shall be a misdemeanor punishable by either six months in jail, a \$500.00 fine, or by both such fine and imprisonment, and by the performance of community service in the form of graffiti clean-up to the maximum extent permitted by law. Each person, firm, corporation, or

partnership shall be deemed guilty of a separate offense for each and every day or any portion thereof during which any violation of the provisions of this code is committed, continued, or permitted by such a person, firm, corporation, or partnership, and shall be deemed punishable thereof as provided in this section.

B. Parental Liability. Any parent or guardian having custody and control of a minor who violates any section of this chapter, shall be personally liable for any and all costs to the county or any person or business incurred in connection with the removal of graffiti caused by conduct of said minor, and for all attorney's fees and court costs incurred in connection with the civil prosecution of any claim for damages or reimbursement not to exceed \$10,000.00 for each violation of the minor. Additionally, any parent or guardian having custody and control of a minor who violates any section of this chapter, shall be jointly and severally liable for any administration fine and/or noncompliance fee which may be imposed against the minor pursuant to Chapter 1.25 of this code.

SECTION 9. Section 13.12.140 is hereby amended to read as follows:

13.12.140 Violations -- Administrative fines and noncompliance fees; Civil remedies available.

Administrative fines and noncompliance fees may be imposed against any person who violates any provision of this chapter and, in the event the person violating such provisions is a minor, the parent or guardian having custody and control of such minor on a joint and several basis, pursuant to Chapter 1.25 of this Code. Additionally, A violation of any of the provisions of this chapter shall constitute a nuisance and may

be abated by the county through civil process by means of a restraining order, preliminary or permanent injunction, or in any manner provided by law for the abatement of such nuisance.

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